

REMARKS

Claim Status

Claims 2, 3, 11, 13, 17-19 and 21 are cancelled. Of these, claims 3 and 13 are presently cancelled.

Claims 1, 7, 22 and 25 are currently amended.

Claim 28 is new.

Applicants respectfully submit that the foregoing amendments to the claims do not introduce any new subject matter to the application. With the present amendments, there are twenty claims pending, namely claims 1, 4-10, 12, 14-16, 20 and 22-28.

Claim Rejections – 35 USC § 103(a)

Four different rejections under 35 U.S.C. § 103(a) are leveled in the Office Action.

Claims 1, 4, 5, 7-10, 16, 20 and 22-27

In the first rejection, claims 1, 4, 5, 7-10, 16, 20 and 22-27 are alleged to be obvious over Rech-Weichselbraun et al. (US Appl. Publ. 2004/0171087) in view of Sawyer et al. (US Patent No. 5,602,041), Mitoma et al. (Patent Abstracts of Japan, 63111467, 1988), and Gatto-Menking et al. (US Appl. Publ. 2003/0108973). Applicants respectfully traverse this rejection for the following reasons.

As currently amended, the claimed method employs a primary antibody and a secondary antibody that recognizes a Cry protein. Examples of this type of protein target are recited in claim 7. None of the cited references teach or suggest this feature of the claims. Therefore, Applicants respectfully submit that this particular obviousness rejection should be withdrawn.

Claims 3, 12 and 13

In the second rejection, claims 3, 12 and 13 are alleged to be obvious over Rech-Weichselbraun, Mitoma, and Gatto-Menking as applied in the first rejection in further view of Rogan et al. (1999, *Food Control* 10:407-414).

As discussed in the above remarks, Rech-Weichselbraun, Mitoma, and Gatto-Menking do not render the pending claims as being obvious. Rogan does not cure this deficiency. Therefore, Applicants respectfully submit that this particular obviousness rejection should be withdrawn.

Claim 6

In the third rejection, claim 6 is alleged to be obvious over Rech-Weichselbraun, Mitoma, and Gatto-Menking as applied in the first rejection in further view of Vogt et al. (1987, *J. Immunol. Meth.* 101:43-50).

As discussed in the above remarks, Rech-Weichselbraun, Mitoma, and Gatto-Menking do not render the pending claims as being obvious. Vogt does not cure this deficiency. Therefore, Applicants respectfully submit that this particular obviousness rejection should be withdrawn.

Claims 14 and 15

In the fourth rejection, claims 14 and 15 are alleged to be obvious over Rech-Weichselbraun, Mitoma, Gatto-Menking and Rogan as applied against claims 1, 3-5, 7-10, 12, 13, 16, 20, and 22-27 (first and second rejections) in further view of Padgett et al. (1995, *Crop Sci.* 35:1451-1461).

As discussed in the above remarks, Rech-Weichselbraun, Mitoma, Gatto-Menking and Rogan do not render the pending claims as being obvious. Padgett does not cure this deficiency. Therefore, Applicants respectfully submit that this particular obviousness rejection should be withdrawn.

No fee is believed to be due for filing this response. However, the Commissioner is hereby authorized to charge any underpayment of fees to Howrey LLP Deposit Account No. 08-3038/04725.0002.PCUS00.

Respectfully submitted,

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